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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/570,028

03/01/2006

Reiko Moriya

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06/27/2007

OLIFF & BERRIDGE, PLC

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EXAMINER

KIDWELL, MICHELE M

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

06/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/570,028

Applicant(s)

MORIYA ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114; and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 19, 2007 has been entered.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Guidotti et al. (US 6,835,192).

With reference to claim 1, Guidotti et al. (hereinafter "Guidotti") discloses an absorbent article configured to be worn by a user, the article including a first sheet leak preventer (9), a second sheet leak preventer (6) disposed above an upper side of the first leak preventer and positioned over a rear part of the first leak preventer, where the second leak preventer does not substantially extend over a front part of the first leak preventer and an absorber (3) containing a super absorbent polymer (col. 6, lines 13 –

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17) capable of absorbing a body fluid, and disposed above an upper side of the first preventer extending from the front part of the first leak preventer beneath the second leak preventer in at least one layer as set forth in figure 5 .

With reference to claim 2, Guidotti discloses an absorbent article in which a urine introduction part forming member (1) is bonded to a part of a lower surface of a front end of the second leak preventer as set forth in figure 5.

As to claim 3, Guidotti discloses an absorbent article further including a urine/feces stopping member (10) in a front end or in a vicinity of the front end of the second leak preventer as set forth in figures 3 – 5.

With reference to claim 4, Guidotti discloses an absorbent article in which the absorber is separated and provided on right and left sides in a front part of the first leak preventer as set forth in figure 3.

With respect to claim 5, Guidotti discloses an absorbent article in which the absorber is separated and provided on right and left sides in a rear part of the first leak preventer as set forth in figure 3.

As to claims 6 and 7, Guidotti discloses an absorbent article in which a part or entire periphery of the first leak preventer rises upward and/or in which the right and left side walls of the first leak preventer are folded inward as set forth in figures 1 – 2.

As to claim 8, Guidotti discloses an absorbent article which right and left side walls of the first leak preventer are formed into folded shape as set forth in figures 1 – 2.

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Regarding claim 9, Guidotti discloses an absorbent article in which the absorber is provided in each of at least two of two or more stepped-spaces defined by the right and left side walls of the first leak preventer formed into folded shape as set forth in figures 1 – 3.

With respect to claim 10, Guidotti discloses an absorbent article in which a part or entire periphery of the second leak preventer rises upward as set forth in figures 1 – 2.

Response to Arguments

Applicant's arguments filed June 19, 2007 have been fully considered but they are not persuasive.

With respect to the applicant's argument that figure 5 of Guidotti must be considered with the lower side of figure 5 corresponding with the upper side of the presently claimed invention, the examiner maintains the current rejection.

If figure 5 of Guidotti is turned upside down, reference character 9 is still considered as the first leak preventer and reference character 6 is still considered as the second leak preventer. The absorbent 3 is disposed above the first leak preventer and the second leak preventer is above the first leak preventer in an area considered as the rear portion.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a side close to a user's body) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are

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not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Even still, the definition of being close to the user side does not mean adjacent as it seems is being argued. The second leak preventer in the current configuration may be considered close to the user's body.

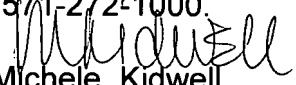
Regarding the applicant's argument with respect to the liquid storage region extending to a front part of the liquid impermeable region, the examiner notes that the liquid impermeable layer is not claimed and that absorber 3 extends the length of layer 9, therefore providing an absorber that extends from the front part of 9 as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Michele Kidwell
Primary Examiner
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